

April 3, 2023

Town of Brookline  
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Dear Select Board and Town Meeting Members,

On behalf of Giffords Law Center to Prevent Gun Violence (“Giffords Law Center”), I write in support of Brookline’s proposed ordinance that would prohibit guns in the buildings or grounds of property owned by the Town of Brookline. Now led by former Congresswoman and gun violence survivor, Gabby Giffords, the organization now known as Giffords Law Center to Prevent Gun Violence has been providing legal expertise in support of local, state, and federal gun violence prevention laws to legislators nationwide for nearly 30 years.

**Guns carried on government property not only threaten public safety but the exercise of constitutional rights.**

In the last few years, the presence of firearms in and around government offices, polling locations, election offices, and other places central to our democratic processes has posed an increasingly serious threat to law enforcement, government officials, and public safety in general.<sup>i</sup> Additionally, such violence or the threat of violence can intimidate people from participating in civil service and voting. Such intimidation ultimately undermines our core constitutional values and threatens our democracy.

Guns carried in public pose an obvious threat to elected officials and government employees, but also to public health and safety. Numerous studies<sup>ii</sup> have shown that public health is negatively impacted not only by the immediate impact of public shootings, but by the anxiety and behavioral changes that arise when communities feel unsafe—an impact disproportionately felt by our [youth](#).

Brookline’s proposed ordinance is narrowly tailored to address the threat firearms pose in so-called “sensitive locations”—where the presence of guns is unusually dangerous or has a chilling effect on the exercise of other rights. In Brookline, these sensitive locations are town property where children are likely to be present and



where the community’s most essential free speech and democratic participation rights are exercised—including in libraries, playgrounds, parks, and town buildings.

### **Examples of sensitive area restrictions can be found in states and localities nationwide.**

As incidents of armed violence have spread, these types of sensitive location restrictions have become increasingly common methods of protecting public safety and are already in effect in dozens of [states](#) and [localities](#) across the country. Restrictions on firearm possession in government buildings, parks, and public recreation facilities are amongst the most common location restrictions. For instance, [six states](#) currently prohibit firearms in public parks to some degree.<sup>iii</sup> Fourteen states prohibit firearms in government-owned buildings.<sup>iv</sup> At the local level, at least sixteen jurisdictions across the United States prohibit firearms in government buildings, parks, and public recreation facilities.<sup>v</sup> For instance, Raleigh, North Carolina prohibits open carry on “any property, street, alley or other public way, park, [or] greenway” and all concealed carry on “[c]ity owned playground[s], athletic field[s], swimming pool[s], or athletic facilit[ies].”<sup>vi</sup> Similarly, both Fairfax County and Richmond, Virginia prohibit firearms in “any building...owned or used by the City...in any public park...in any recreation or community center operated by the City...and in any public street, road, alley, or sidewalk or public-right of way [that] is open to the public.”<sup>vii</sup>

### **Sensitive area restrictions are consistent with the Second Amendment.**

In June 2022, the Supreme Court issued *New York State Rifle & Pistol Association, Inc. v. Bruen*,<sup>viii</sup> the most significant Second Amendment ruling in over a decade that fundamentally rewrote how challenges to gun laws are evaluated under the Second Amendment. The Supreme Court directed lower courts to utilize a radical new test to “assess whether modern firearms regulations are consistent with the Second Amendment’s text and historical understanding.”<sup>ix</sup> Going forward, to uphold a challenged law, a court must, at a minimum, locate a “well-established and representative historical analogue” for the modern law. But the Court was clear that a historical twin is not required.

However, the Court also referenced its earlier decision in *Heller v. District of Columbia*<sup>x</sup> to identify “sensitive places” where prohibitions on the possession of guns are presumptively lawful—specifically, “legislative assemblies, polling places, and courthouses”—the very types of places that would be off-limits to guns under the proposed ordinances. Accordingly, the proposed ordinance is almost certainly constitutional under the *Bruen* decision.

For the foregoing reasons, I urge you to enact the proposed ordinance prohibiting guns on Town property.



Sincerely,



Allison Anderman  
Senior Counsel and Director of Local Policy

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## ABOUT GIFFORDS LAW CENTER

For nearly 30 years, the legal experts at Giffords Law Center to Prevent Gun Violence have been fighting for a safer America by researching, drafting, and defending the laws, policies, and programs proven to save lives from gun violence.

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<sup>i</sup> See e.g., Tess Owens, [American Politicians Are Facing More Gun Threats](#), VICE (Jan. 6, 2023); Zachary Cohen, [FBI Warns ‘Armed Protests’ Being Planned at all 50 State Capitols and Washington](#), CNN (Jan. 12, 2021); Mike McIntire, [At Protests, Guns Are Doing the Talking](#), NYT (Dec. 6, 2022); Kristen Holmes, et al., [States Grapple With Open-Carry Gun Laws and the Polls](#), CNN (Oct. 9, 2020).

<sup>ii</sup> See e.g., Zara Abrams, [Stress of Mass Shootings Causing Cascade of Collective Traumas](#), AM. PSYCH. ASSOC. (Upd. Sept. 2022); Aditi Vasan, MD, MSHP et al, ASSOCIATION OF NEIGHBORHOOD GUN VIOLENCE WITH MENTAL HEALTH-RELATED PEDIATRIC EMERGENCY DEPARTMENT UTILIZATION, 175 JAMA PEDIATRICS 1244-1251 (Dec. 2021); Christina Caron, [What Gun Violence Does to Our Mental Health](#), NYT (Upd. June 3, 2022).

<sup>iii</sup> Hawai‘i, South Carolina, New Jersey, New York, Oklahoma, and Rhode Island.

<sup>iv</sup> California, Hawai‘i, Illinois, Kansas, New Jersey, Nevada, New York, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, Virginia, and Wisconsin.

<sup>v</sup> See Boulder County, Colorado Municipal Code Ordinance No. 2022-4; Lafayette, Colorado Municipal Code, §§ 75-262, 75-263.5; Superior, Colorado Municipal Code, § 10-9-250; Louisville, Colorado Municipal Code, § 9.82.100; Hawai‘i County, Hawai‘i County Code, § 14-118; Honolulu, Hawai‘i Bill 57 (2022) (not yet codified; to be enacted under Chapter 40 of the Revised Ordinances of Honolulu); Missoula, Montana Municipal Code, § 8.58.010; Charlotte, North Carolina Municipal Code, § 15-272; Raleigh, North Carolina Municipal Code, § 9-2021; Union County, New Jersey Ordinance No. 840-2022 (not yet codified; to be enacted as Laws of Union County, New Jersey Administrative Code & Policies and General Legislation §115-58); Philadelphia, Pennsylvania Municipal Code, § 16-306; Memphis, Tennessee Municipal Code, § 10-32-2; Nashville, Tennessee Municipal Code, § 13-24-440; San Antonio, Texas Municipal Code, §§ 21-156(a), 21-157, 21-153; Fairfax County, Virginia, Municipal Code, § 6-2-1; Richmond, Virginia Municipal Code, § 19-335.

<sup>vi</sup> Raleigh, North Carolina Municipal Code, § 9-2021.

<sup>vii</sup> Fairfax County, Virginia Municipal Code, § 6-2-1; Richmond, Virginia Municipal Code, § 19-335.

<sup>viii</sup> 142 S. Ct. 2111 (2022).

<sup>ix</sup> *Id.* at 2132.

<sup>x</sup> *District of Columbia v. Heller*, 554 U. S. 570 (2008).